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## LOK SABHA

The following Bill was introduced in Lok Sabha on the 14th September, 1964:—

BILL NO. 58 OF 1964

*a bill to provide for the superintendence of the estates of the Rulers of Indian States by the Court of Wards in certain cases.*

BE it enacted by Parliament in the Fifteenth Year of the Republic of India as follows:—

### CHAPTER I

#### PRELIMINARY

5 1. (1) This Act may be called the Court of Wards (Rulers of Indian States) Act, 1964. Short title, extent and commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir. Definitions.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) "Commissioner" includes the Board of Revenue;

(b) "Indian State" has the same meaning as in article 366 of the Constitution;

15 9 of 1875. (c) "minor" means a Ruler who, under the provisions of the Indian Majority Act, 1875, has not attained majority;

(d) "Ruler" has the same meaning as in article 366 of the Constitution;

20 (e) "ward" means a Ruler who has been made a ward of the Court of Wards under this Act.

(531)

## CHAPTER II

## COURT OF WARDS AND ASSUMPTION OF SUPERINTENDENCE OF ESTATES

Court of  
Wards.

3. The Collector or the Deputy Commissioner of a district shall be the Court of Wards for the limits of his district:

Provided that the Central Government may, if it thinks fit, by notification in the Official Gazette,—

(a) appoint a Commissioner or Special Officer to be the Court of Wards for any division, district, area or estate; or

(b) constitute a Board consisting of two or more officers to be the Court of Wards for any division, district, area or estate. 10

Assump-  
tion of  
superin-  
tendence  
by Court  
of Wards  
of the  
estates  
of dis-  
qualified  
Rulers  
Disquali-  
fied  
Rulers.

4. The Court of Wards may, with the previous sanction of the Central Government, assume the superintendence of the estate of any Ruler who is disqualified under section 5 to manage his estate.

5. The following Rulers shall be deemed to be disqualified to manage their estates, namely:— 15

(a) Rulers who are minors;

(b) Rulers declared by a competent civil court to be of unsound mind and incapable of managing their estates;

(c) Rulers declared by the Central Government to be incapable of managing or unfitted to manage their estates,— 20

(i) owing to any physical defect or infirmity; or

(ii) owing to their having entered upon a course of extravagance; or

(iii) owing to their failure to discharge the debts and liabilities due by them: 25

Provided that no declaration under sub-clause (ii) or sub-clause (iii) of this clause shall be made unless the Central Government is satisfied—

(a) that the aggregate annual interest payable at the contractual rate on the debts and liabilities due by the Ruler exceeds one-third of the gross annual profits of the estate; or 30

(b) that such extravagance or such failure to discharge the said debts and liabilities is likely to lead to the dissipation of the estate.

6. (1) Where on the basis of any information in its possession, the Central Government has reason to believe that a Ruler is incapable of managing or unfitted to manage his estate under clause (c) of section 5, it may direct an inquiry to be made into the circumstances and conditions of the Ruler by an officer of Government appointed by it in this behalf.

Inquiry into circumstances and conditions of a Ruler believed to be disqualified.

(2) The officer appointed to make the inquiry may, for the purpose of compelling the attendance of witnesses and the production of documents in the course of such inquiry, exercise all or any of the powers of a civil court under the Code of Civil Procedure, 1908.

(3) The Central Government, on receipt of the report of the officer appointed to make the inquiry, may, if satisfied that it is necessary in the public interest so to do, declare the Ruler to be disqualified under clause (c) of section 5:

15 Provided that no such declaration shall be made in respect of a Ruler until the Ruler has been furnished by the Central Government with a detailed statement of the grounds on which it is proposed to disqualify him and the Ruler has had an opportunity of showing cause why such declaration should not be made.

20 7. Where any person is appointed or declared to be guardian of the estate of a minor under sub-section (1) of section 7 of the Guardians and Wards Act, 1890, he shall intimate the fact to the Court of Wards, and the Court of Wards may thereupon, with the previous sanction of the Central Government, assume the superintendence of the estate.

Assumption of superintendence by the appointed guardian.

30 8. (1) Any Ruler may apply to the Central Government to have his estate placed under the superintendence of the Court of Wards, and the Central Government may on such application, if it thinks fit and expedient, order the Court of Wards to assume the superintendence of the estate.

Superintendence by Court of Wards on application of a Ruler

(2) An order made by the Central Government under sub-section (1) shall be sufficient to authorise the Court of Wards to assume the superintendence of the estate referred to therein, and such order shall not be questioned in any court of law.

35 9. (1) Pending decision as to succession, the Central Government may, if it considers it necessary so to do for the protection of the estate of a deceased Ruler, direct the Court of Wards to take such steps and make such orders for the custody and protection of the estate of such Ruler as the Court of Wards thinks fit.

Temporary provision for protection of estates of Rulers.

In certain cases.

(2) Whenever the Court of Wards has reason to believe that the person recognised as the successor of a deceased Ruler is one who is, or should be declared to be, disqualified under section 5, it may take such steps and make such orders for the temporary custody and protection of the estate of such Ruler as it thinks fit. 5

Superintendence where estate is within the jurisdiction of two or more Courts of Wards.

10. Where a Ruler owns an estate which is within the jurisdiction of two or more Courts of Wards, such one only of the Courts of Wards as the Central Government may direct in this behalf shall assume the superintendence of the estate of the Ruler.

Assumption of superintendence to be notified and to extend to whole of the ward's estate.

11. (1) Whenever the Court of Wards assumes the superintendence of the estate of any Ruler under this Act, the fact of such assumption and the date on which it was sanctioned or ordered by the Central Government shall be notified in the Official Gazette. 10

(2) On and with effect from the date of such sanction or order, the whole of the property, movable and immovable, comprising the estate of such Ruler, whether the existence of any such property may be known to the Court of Wards or not, shall be deemed to be under its superintendence. 15

(3) Any property which the ward may inherit subsequent to the date of such sanction or order and during the continuance of the superintendence, shall also be deemed to be under the superintendence of the Court of Wards. 20

Barring of suits to contest authority to assume superintendence.

12. No suit shall be brought in any civil court to contest the authority of the Court of Wards in respect of the estate of any Ruler under this Act on the ground that such person was not, or is not a Ruler or a minor. 25

### CHAPTER III

#### INVESTIGATION OF CLAIMS AGAINST THE WARD

Publication of notice to claimants against ward.

13. (1) On the issue of a notification under sub-section (1) of section 11, the Court of Wards shall publish in the Official Gazette, and in such other manner as the Central Government may, by general or special order, direct, a notice, in English and also in the 30

regional language or languages in common use in the district or division in which the ward is ordinarily resident and in the district or division in which his estate or any part thereof is situated, calling upon all persons, having claims against the ward or his estate to  
5 submit the same in writing to the Court of Wards within six months from the date of the publication of the notice aforesaid in English in the Official Gazette.

(2) Every such claim (other than a claim on the part of the Government) not submitted to the Court of Wards in compliance  
10 with the notice published under sub-section (1), shall, subject to the provisions of clause (c) of sub-section (2) of section 17, be deemed for all purposes and on all occasions, whether during the continuance of the superintendence or thereafter, to have been duly discharged:

Provided that if the Court of Wards is satisfied that the claimant  
15 for reasons beyond his control or other sufficient reasons was unable to comply with the notice published under sub-section (1) within the period referred to therein, it may receive his claim at any time after the date of the expiry of that period, but any claim so received shall, notwithstanding any law, contract, decree or award to the  
20 contrary, cease to carry any interest from such date until its receipt.

14. (1) The Court of Wards may by written order require that any claimant submitting his claim shall, within such reasonable time as it may specify in such order, furnish full particulars thereof and produce all documents on which he relies to support his claim,  
25 together with a true copy of every such document:

Power to require claimants to furnish full particulars and documents.

Provided that, where the claim relates to an amount secured by a decree or award, it shall be sufficient for the claimant to produce before the Court of Wards, a certified copy of the decree and a certificate from the court which passed the decree or is executing it  
30 declaring the amount recoverable thereunder, or a true copy of the award and statement of the sum recoverable thereunder, as the case may be; and where the claim is pending adjudication in any court or has been referred to arbitration, it shall be sufficient for the claimant to produce a certified copy of the plaint, or as the case may  
35 be, a true copy of the reference to arbitration.

(2) The Court of Wards shall, after marking for the purpose of identification, every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the claimant.

40 (3) Where any document, which is the possession or under the control of a claimant, is not produced by him in accordance with an order under sub-section (1), the document shall not be admissible in evidence against the ward, in any suit filed, whether during the continuance of the superintendence of the Court of Wards or

thereafter, by such claimant, or by any person claiming under him, in respect of any claim to which the document relates, unless it is proved to the satisfaction of the court that he was, for reasons beyond his control or other sufficient reasons, unable to produce such document as required by such other. 5

Investi-  
gation and  
decision  
of claims.

15. (1) On receipt of the claims submitted in compliance with the provisions of sections 13 and 14, the Court of Wards shall proceed to investigate such claims and shall decide, subject to the provisions of sub-section (3), which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communi- 10 cate its decision in writing to each claimant concerned.

(2) Where the Court of Wards has admitted any claim under sub-section (1), it may make to the claimant a proposal in writing for the reduction of the claim, or of the rate of interest to be paid in future, or of both; and if such proposal or any modification of it, 15 is accepted by the claimant, and his acceptance is finally recorded and is attested by the Court of Wards or by any Revenue Officer (not below the rank of a Deputy Collector or an Assistant Commissioner) whom the Central Government may, by general or special order appoint in this behalf, it shall be conclusively binding upon the 20 claimant:

Provided that if, when the superintendence of the estate by the Court of Wards is withdrawn, any portion of the claim reduced as aforesaid is still unsatisfied, the claimant shall be entitled to recover a sum bearing the same proportion to the original claim admitted 25 under sub-section (1) as the unsatisfied portion bears to the reduced claim.

(3) Subject to the provisions of sub-section (2), nothing in this section shall be construed to bar the institution of a suit in a civil court against a ward or his estate for the recovery of a claim which 30 has been duly submitted to the Court of Wards:

Provided that no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant.

Execution  
of decrees  
to be  
stayed  
till certi-  
ficate  
filed.

16. (1) On the publication of a notice in English in the Official Gazette under sub-section (1) of section 13, no proceeding in execu- 35 tion of any decree against the ward or his estate shall be instituted or continued until the decree-holder files a certificate from the Court of Wards that the decree-claim has been duly submitted or until the expiration of one month from the date of receipt by the Court of Wards of a written application, accompanied by a certified copy 40 of the decree, for such certificate.

(2) In computing the period of limitation prescribed by the Limitation Act, 1963, for any application for the execution of a decree, 36 of 1963. proceedings in which have been stayed or temporarily barred by



reason of the claim not having been duly submitted, the time from the publication of the notice in English in the Official Gazette under sub-section (1) of section 13 or from the date of the decree if it was passed subsequent to such publication, to the date of due submission shall be excluded.

17. (1) When all claims have been investigated under section 15, the Court of Wards shall submit to the Central Government a schedule of the debts and liabilities of the ward, and the Central Government may, where the estate appears to be involved beyond all hope of extrication, or for any other sufficient reason, by an order published in the Official Gazette, direct that, on a date to be fixed by the order, the superintendence of the estate of the ward by the Court of Wards shall be withdrawn.

Report to  
Central  
Govern-  
ment.

(2) On the date so fixed—

(a) the superintendence shall terminate;

(b) the Ruler of the estate under superintendence shall be restored to the possession thereof, subject to any contracts entered into by the Court of Wards for the preservation or benefit of such estate;

(c) the claims referred to in sub-section (2) of section 13 shall revive.

(3) In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which the superintendence has continued shall be excluded.

#### CHAPTER IV

##### POWERS AND FUNCTIONS OF COURT OF WARDS

18. (1) Where the Court of Wards does not consist of the Collector or the Deputy Commissioner of a district, such Court of Wards may, with the general or special sanction of the Central Government, from time to time, delegate all or any of its powers to the Collector or the Deputy Commissioner of any district in which any part of the estate of the ward is situated, or to any other Revenue Officer not below the rank of a Deputy Collector or an Assistant Commissioner whom it may appoint in this behalf, and may, at any time, with the like sanction, revoke such delegation.

Dele-  
tion  
pow-  
by  
of

(2) Where the Court of Wards does not consist of the Collector or the Deputy Commissioner of a district, then, subject to any general or special orders of the Central Government, such Court of Wards may exercise all or any of the powers conferred on it by this Act through the Collector or the Deputy Commissioner of any district in which any part of the estate of a ward is situated, or through

any other Revenue Officer not below the rank of a Deputy Collector or an Assistant Commissioner whom it may appoint in this behalf, and, subject to the like orders, any such Collector, Deputy Commissioner or other Revenue Officer may exercise all or any of those powers through any Revenue Officer subordinate to him. 5

(3) Where the Court of Wards consists of the Collector or the Deputy Commissioner of a district, then, subject to any general or special orders of the Central Government, such Court of Wards may exercise all or any of the powers conferred on it by this Act through a Deputy Collector or an Assistant Commissioner whom it may 10 appoint in this behalf; and subject to the like orders, any such Deputy Collector or Assistant Commissioner may exercise all or any of those powers through any Revenue Officer subordinate to him.

Appoint-  
ment of  
manager  
by Court  
of Wards.

19. The Court of Wards may appoint a manager of the estate of any ward under its superintendence. 15

Liabilities,  
tc., of  
manager  
appointed  
by Court  
of Wards.

20. (1) Every manager appointed by the Court of Wards shall—

(a) give such security, with such sureties, if any, as the Court of Wards thinks fit for the due discharge of the trusts of his office and for the due accounting of all property and moneys which come into his control or possession by reason of his office; 20

(b) be entitled to such allowance as the Court of Wards thinks fit for his diligence and responsibility in the execution of his duties; and

(c) be responsible for any loss occasioned to the estate under his management by his wilful default or gross negligence; 25 and every such loss shall be recoverable from him and from the sureties, if any, in the same manner as an arrear of land revenue.

(2) The manager or any servant of the Court of Wards shall be deemed to be a "public servant" within the meaning of Chapter IX of the Indian Penal Code; and, in the definition of "legal remunera- 30 45 of 1860. tion" contained in section 161 of the said Code, the word "Government" shall, for the purposes of this sub-section, be deemed to include the Court of Wards.

21. Subject to the provisions of this Act and of any rules made 35 thereunder, the Court of Wards may, by itself or through the manager, if any, appointed by it under this Act, do all such things as may be necessary for the proper care and superintendence of the estate diligently and faithfully for the benefit of the estate, and the Court of Wards or the manager shall in every respect act to the best of its or his judgment for the interests of the estate as if the estate 40 were its or his own.



22. The Court of Wards may, from time to time, determine what sums shall be allowed in respect of the expenses of any ward and of his family and dependents.

Allow-  
ance for  
ward, his  
family  
and de-  
pendents.

23. The Court of Wards may sell, exchange, mortgage, charge or let the estate of a ward, and may do all such things as it may judge to be best for the benefit of the estate and the advantage of the ward:

Powers  
of Court  
of Wards  
as to the  
estate of  
the ward.

Provided that—

(a) the previous sanction of the Central Government shall be required for any sale, exchange or mortgage of, or charge on, immovable property and for any lease of such property for a term exceeding ten years, and

(b) where one-third of the immovable property of a ward has already been sold or exchanged, no further sale or exchange shall be made.

24. For the purpose of the recovery of rents, profits and other sums due in respect of the estate under the superintendence of the Court of Wards (whether such arrears become due before or after the assumption of such superintendence), the Court of Wards shall have all the powers possessed by the relevant authority or officer of a district under the law for the time being in force for the recovery of land revenue due to Government.

Recovery  
of arrears  
of rent, etc  
as arrears  
of land  
revenue.

25. Save as otherwise provided in section 26, no estate under the superintendence of the Court of Wards shall be liable to sale on account of arrears of land revenue:

Estate  
under  
superin-  
tendence  
of Court  
of Wards  
not liable  
to sale  
for  
arrears.

Provided that all such arrears of land revenue shall be the first charge upon the sale proceeds of any such estate which may be sold for any cause other than for arrears of land revenue.

26. All expenses incurred by the Court of Wards under the provisions of this Act in respect of the estate of a ward and if the Court of Wards assumes the superintendence of the estate of any Ruler disqualified under clause (c) of section 5, all expenses incurred by the Central Government for complying with the provisions of section 6 in relation to such Ruler, shall form a charge upon such estate and shall be recoverable as arrears of land revenue.

Liability  
of estates  
to pay ex-  
penses of  
Court of  
Wards.

27. (1) Whenever it appears to the Court of Wards that by virtue of or in execution of a decree or order of a civil court, the estate of

Power of  
Court of  
Wards to

claim  
exemption  
of the  
estate  
of ward  
from pro-  
cess of  
civil  
court.

a ward under its superintendence is or is likely to be insufficient for the payment of the expenses—

(a) of the superintendence of the estate of the said ward under this Act, or

(b) of the said ward, his family and dependents, allowed 5 under section 22,

the Court of Wards may issue a certificate in writing to the civil court executing the said decree or order claiming exemption of the estate for such period as the Court of Wards may from time to time deem expedient from any attachment, sale, transfer or other 10 process of a civil court.

(2) Upon the receipt of such certificate, the civil court executing the decree or order against the said estate shall notwithstanding anything contained in section 16 or any other law for the time being in force, raise any attachment or other process pending against the 15 estate specified in the certificate or shall set aside any order of sale or transfer of the said estate which thereupon shall be exempt from any attachment, sale, transfer or other process of a civil court for the period specified in the said certificate and during the said period the execution of such decree or order shall, so far as it affects the estate 20 for the purposes of section 15 of the Limitation Act, 1963, be 36 of 1963. deemed to have been stayed:

Provided that if the superintendence of the Court of Wards of the said estate terminates under section 17, or is withdrawn under section 36, the exemption granted under this section shall, with effect 25 from the date of such termination or withdrawal, cease to be in operation.

Notice  
of suit.

28. No suit relating to the estate of any ward shall be brought in any civil court until the expiration of two months after notice in writing stating the name and place of abode of the intending plaintiff, 30 the cause of action and the relief claimed has been delivered to, or left at the office of, the Court of Wards; and the plaint shall contain a statement that such notice has been so delivered or left:

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire 35 within three months from the date of the notification under sub-section (1) of section 11

Manager  
or Court  
of Wards  
to be next  
friend or  
guardian  
in suits  
by or  
against  
the ward.

29. In every suit brought by or against a ward, the manager or if there is no manager, the Court of Wards having the superintendence of the ward's estate shall be named as the next friend or guardian for 40 the suit, as the case may be.

30. Where, in any suit brought by or against a ward, any civil court decrees any costs against the ward's next friend or guardian for the suit, the Court of Wards shall cause the costs to be paid out of the estate of the ward.

Payment of costs.

5 31. Every process which may be issued by any civil or revenue court against any ward shall be served on the ward's next friend or guardian for the suit.

Processes against ward to be served on his next friend or guardian.

32. No suit shall be brought, and no appeal in any suit shall be preferred, by any manager appointed by the Court of Wards on behalf of any ward unless it is authorised by an order in writing of the Court of Wards:

Authority of Court of Wards required in case of suits brought on behalf of wards.

15 Provided that the manager may authorise the filing of a plaint or a memorandum of appeal in order to save a suit or appeal from being barred by the law of limitation, but the suit or appeal shall not afterwards be proceeded with except with the sanction of the Court of Wards.

Suits brought on behalf of wards.

5 of 1908. 20 33. (1) Where any question arising between two or more wards is of such a nature that an adjudication upon it by a civil court is expedient, it shall be lawful for the Court of Wards or any person who may be authorized by it in this behalf to file in the civil court in which a case might have been stated for its opinion with regard to that question under rule 1 of Order XXXVI in the First Schedule to the Code of Civil Procedure, 1908, a statement containing the point or points for determination.

Adjudication of civil disputes between two or more wards.

5 (2) When such statement has been filed, the court shall appoint a guardian for the suit for each ward having a separate interest, and such guardians shall thereupon conduct the case subject to the general control of the Court of Wards.

5 of 1908. 30 (3) The court may, if it thinks fit, amend the case so stated and shall then proceed to hear and dispose of the case in the manner provided in Order XXXVI in the First Schedule to the Code of Civil Procedure, 1908, for the hearing and disposal of cases stated for its opinion under that Order.

## CHAPTER V

### DISABILITIES OF A WARD

35 34. (1) Except with the approval of the Court of Wards, a ward shall be incompetent to transfer or create any charge on, or interest in, his estate or any part thereof except such interest as may be created

Disabilities of a ward.

by a will made in accordance with section 35 or to enter into any contract which may involve him in pecuniary liability; and no suit shall be brought in any civil court whereby to charge any Ruler upon any promise made after he has ceased to be a ward to pay any debt contracted during the period when he was a ward, or upon any ratification made after he has ceased to be a ward of any promise or contract made during the period aforesaid, whether there is or is not any new consideration for such promise or ratification.

(2) Nothing in this section shall be deemed to affect the capacity of a ward to enter into a contract of marriage: 10

Provided that a ward shall not incur, in connection with such a contract, any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable. 15

**Sanction of Central Government necessary for adoption and wills to be made by wards.** 35. No adoption or will made by a ward shall be valid unless it has been made with the sanction of the Central Government obtained on an application made to it by the ward through the Court of Wards:

Provided that sanction shall not be withheld unless it appears to the Central Government that the adoption or the will is contrary to the personal or special law applicable to the ward, or that it is likely to cause considerable pecuniary embarrassment to the estate or to lower considerably the influence or respectability of the Ruler in public estimation. 20 25

## CHAPTER VI

### RELEASE OF ESTATES FROM SUPERINTENDENCE

**Withdrawal of superintendence of Court of Wards.** 36. (1) The Court of Wards shall withdraw its superintendence of the estate of a ward—

(a) in the case of a Ruler disqualified under clause (a) of section 5 or in the case referred to in section 7, as soon as the Ruler attains his majority;

(b) in the case of a Ruler disqualified under clause (b) of section 5, as soon as he ceases to be of unsound mind and is capable of managing his estate; 35

(c) in the case of a Ruler disqualified under clause (c) of section 5, as soon as in the opinion of the Central Government he has become fit to manage his estate;

(d) in the case referred to in section 8, on such date as the Central Government may, by notification in the Official Gazette, appoint; and 40

(e) in the case of the death of a Ruler, as soon as his successor is recognised by the President.

(2) Nothing contained in sub-section (1) shall prevent the Court of Wards—

(a) in any case where at the time when the Court of Wards has to withdraw its superintendence under sub-section (1), the estate is still encumbered with debts and liabilities, from continuing its superintendence with the sanction of the Central Government until such debts and liabilities are discharged; or

(b) from withdrawing its superintendence at any time with the sanction of the Central Government.

37. (1) Where in exercise of the powers conferred by section 36, the Court of Wards decides to withdraw its superintendence from the estate of any minor, it shall, before such withdrawal, by an order in writing, appoint some person to be guardian of the estate of the said minor, and such appointment shall take effect from the date of such withdrawal.

ment of guardian in certain cases,

8 of 1890.

(2) In appointing a guardian under this section, the Court of Wards shall be guided by the provisions of the Guardians and Wards Act, 1890, and every guardian so appointed shall have, and be subject to, the same rights, duties and liabilities as if he had been appointed under that Act.

38. Where the Court of Wards withdraws its superintendence from the estate of a ward under this Act, the fact of such withdrawal shall be notified in the Official Gazette and in such other manner as the Central Government may, by general or special order, direct.

With- drawal to be notified in Official Gazette.

39. An appeal shall lie from every order other than an order of a civil court passed under this Act, whether original or on appeal,—

Appeals.

(a) if the order is that of a Commissioner, Special Officer or a Board, to the Central Government;

(b) if the order is that of a Collector or a Deputy Commissioner, to the Commissioner;

(c) in all other cases, to the Collector or the Deputy Commissioner of a district:

Provided that in no case shall a third appeal lie.

## CHAPTER VII

### MISCELLANEOUS

40. All orders or proceedings under this Act, other than orders or proceedings of a civil court, shall be subject to the supervision and control of the Central Government; and the Central Government

Control of Central Government.

may, if it thinks fit, revise, modify, or reverse any such order or proceeding, whether an appeal is presented against such order or proceeding or not.

Delegation of functions by Central Government.

41. The Central Government may, by notification in the Official Gazette, direct that the functions exercisable by it under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by an officer subordinate to that Government or by a State Government or by an officer subordinate to a State Government. 5

Power to compel attendance of witnesses.

42. For the purposes of this Act, the Court of Wards may summon and enforce the attendance of any witness and compel him to give evidence, and compel the production of documents, by the same means and, as far as may be, in the same manner, as is provided in the case of a civil court by the Code of Civil Procedure, 1908. 10 5 of 1908.

Bar of suits.

43. No suit shall be brought in any civil court against the Court of Wards or any public servant or person duly appointed or authorised under this Act in respect of anything in good faith done or intended to be done under the provisions thereof or the rules made thereunder: 15

Provided that any tenant from whom an arrear of rent has been recovered under section 24 may sue for recovery of the amount, or any part thereof, so recovered.

Power of Central Government to make rules.

44. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may— 25

(a) prescribe the matters to which regard shall be had in appointing or removing guardians and managers, and in fixing their remuneration, and their powers and duties;

(b) regulate the form, conditions and amount of security, and the number of sureties, if any, to be given by the managers appointed by the Court of Wards; 30

(c) prescribe the cases in which proposals or arrangements connected with the administration of the estates of wards shall be reported for the sanction of the Central Government; 35

(d) prescribe the accounts and other returns, and the form and other particulars thereof, which shall be rendered by the Court of Wards to the Central Government and to the Court of Wards;



(e) regulate the custody of securities and title-deeds belonging to the estate of a ward;

5 (f) regulate the procedure in inquiries and appeals under this Act, fix the periods of limitation which shall apply to such appeals and the fees payable in respect of such appeals;

(g) prescribe the mode in which powers delegated to managers and officers are to be notified for the information of persons concerned;

10 (h) prescribe the mode in which any expenses incurred by the Court of Wards, or any revenue officer under any power conferred by this Act may be recovered;

(i) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

15 (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately follow-  
20 ing, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previ-  
25 ously done under that rule.

45. (1) The enactments specified in column 2 of the Schedule shall, to the extent to which they confer powers and functions in and relation to the estates of Rulers of Indian States, stand repealed in savings.  
30 the State or Union territory specified in the corresponding entry in column 1 thereof or, as the case may be, in any part or parts of that State or Union territory where any such enactment is in force.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of any enactment specified in the Schedule shall, in so far as such thing or action is not inconsistent with  
35 the provisions of this Act, be deemed to have been done or taken under the provisions of this Act as if the said provisions were in force when such thing was done or when such action was taken and shall continue in force accordingly until superseded by anything done or any action taken under this Act.

## THE SCHEDULE

(See section 45)

State or Union Territory	Enactments
1	2
Andhra Pradesh	.. The Andhra Pradesh (Andhra Area) Court of Wards Act, 1902 (I of 1902). 5
Gujarat	.. The Bombay Court of Wards Act, 1905 (I of 1905).
Kerala	.. The Madras Court of Wards Act, 1902 (I of 1902). 10
Madhya Pradesh	.. The Central Provinces Court of Wards Act, 1899 (XXIV of 1899).
Madras	.. The Madras Court of Wards Act, 1902 (I of 1902). 15
Maharashtra	.. (i) The Bombay Court of Wards Act, 1905 (I of 1905). (ii) The Central Provinces Court of Wards Act, 1899 (XXIV of 1899). 20
Mysore	.. (i) The Madras Court of Wards Act, 1902 (I of 1902). (ii) The Bombay Court of Wards Act, 1905 (I of 1905).
Orissa	.. The Orissa Court of Wards Act, 1947 (XXVI of 1947). 25
West Bengal	.. The Court of Wards Act, 1879 (IX of 1879).
Manipur	.. The Court of Wards Act, 1879 (Bengal Act IX of 1879), as extended to Manipur. 30
Himachal Pradesh	.. The Punjab Court of Wards Act, 1903 (Punjab Act II of 1903), as extended to Himachal Pradesh.

## STATEMENT OF OBJECTS AND REASONS

When the Ruler of a former Indian State is a minor or is otherwise incapable of managing his estate, the need arises to place his estate under the supervision of a Court of Wards. According to the Constitution, the power to enact laws relating to Courts of Wards for the estates of Rulers of Indian States is vested in Parliament. No such law has yet been enacted. This has given rise to some inconvenience and it is proposed to remedy the situation by enacting this Bill.

The notes on clauses explain the important provisions of the Bill.

NEW DELHI;

GULZARI LAL NANDA

*The 4th September, 1964.*

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF  
THE CONSTITUTION OF INDIA

[Copy of letter No. F. 21/5/64-Poll. III, dated the 5th September, 1964 from Shri Jai Sukh Lal Hathi, Minister of State in the Ministry of Home Affairs to the Secretary, Lok Sabha.]

The President, having been informed of the subject matter of the Court of Wards (Rulers of Indian States) Bill, 1964, recommends consideration of the Bill in the Lok Sabha under article 117(3) of the Constitution of India.

*Notes on clauses*

## CHAPTER II

*Clause 3* provides for the constitution of the Collector or the Deputy Commissioner as the Court of Wards within his jurisdiction and also authorises the appointment of a Commissioner or a Special Officer or a Board to be a Court of Wards.

*Clause 5* specifies the factors or circumstances which should be deemed to disqualify a Ruler to manage his estate.

*Clause 6* lays down the procedure to be followed before a Ruler is declared to be disqualified to manage his estate. Provision has been made for an inquiry before the declaration and for giving to the Ruler an opportunity to show cause against the proposed declaration.

*Clause 8* enables a Ruler to apply to the Central Government to have his estate placed under the superintendence of the Court of Wards.

*Clause 9* provides for the custody and protection of the estate of a Ruler if there is any doubt or dispute relating to succession. But this power can be exercised only by the Central Government and the steps necessary for such custody and protection will be taken by the Court of Wards on the issue of a direction by the Central Government. In cases where the Court of Wards itself feels that a person recognised as the successor of a deceased Ruler is, or should be declared to be, disqualified to manage his estate, the Court may, on its own motion, take necessary action for the temporary custody and protection of the estate of such Ruler.

*Clause 11 inter alia* makes it clear that whenever the Court of Wards assumes the superintendence of the estate of any Ruler, such superintendence will extend to the whole of the property, movable and immovable, comprising the estate of such Ruler including property, if any, of whose existence the Court may not be aware.

## CHAPTER III

*Clause 13* imposes an obligation on the Court of Wards to require all persons having claims against the estate to submit the claims in writing to the Court within a specified period.

*Clause 14* authorises the Court of Wards to call upon all claimants to furnish full particulars and to produce all documents on which they rely in support of their claims.

*Clause 15* provides for the investigation of claims and for the ascertainment of the amounts payable under each claim.

*Clause 16* imposes a temporary ban on the execution of decrees against the ward or his estate subsequent to the publication by the Court of Wards of the notice inviting persons to submit claims against the estate. Consequent upon the temporary stay of the execution of decrees provided in this clause, provision has been made for saving the period of limitation.

*Clause 17* enables the Central Government to direct the Court of Wards to withdraw its superintendence where it appears to the Central Government that the estate is involved beyond all hope of extrication and specifies the consequences of such withdrawal.

## CHAPTER IV

*Clause 18* provides for the delegation by the Court of Wards of its powers and it also empowers the Court to exercise all or any of its powers through certain Revenue Officers.

*Clauses 19, 20 and 21* provide for the appointment by the Court of Wards of a manager of an estate and specify the powers and functions of such manager.

*Clause 22* enables the Court of Wards to determine the amounts that should be allowed in respect of the expenses of the ward and of his family and dependents.

*Clause 23* enables the Court of Wards to sell, mortgage or otherwise deal with the estate of the ward, subject to certain restrictions and limitations.

*Clause 24* provides for the recovery of arrears of rents, profits, etc., as arrears of land revenue.

*Clause 25* saves the estate so long as it is under the superintendence of the Court of Wards from liability to sale on account of arrears of land revenue, but this will not affect clause 26.

*Clause 26* constitutes all expenses incurred in respect of the estate of a Ruler by the Court of Wards as a charge upon the estate and renders it recoverable as arrears of land revenue.

*Clause 27* enables the Court of Wards to claim exemption of the estate for a specified period from attachment and sale etc., by a Court.

*Clause 28* bars all suits relating to the estates of wards in respect of which at least two months' prior notice has not been given to the Court of Wards.

*Clause 33* confers power on the Court of Wards acting through the Collector or the Deputy Commissioner to state a case for the opinion of a civil court whenever any question arises between two or more wards which is of such a nature that adjudication by a court of law is considered expedient.

## CHAPTER V

*Clauses 34 and 35* impose certain disabilities on the ward in respect of his dealings with the estate and prohibits the making by any ward of any adoption or will save with the sanction of the Central Government.

## CHAPTER VI

*Clause 36* enumerates the circumstances under which it will be obligatory on the Court of Wards to withdraw its superintendence of the estate of a ward.

*Clause 37* empowers the Court of Wards to appoint a guardian of the estate before the Court withdraws its superintendence.

*Clause 39* provides for appeals from orders of any authority other than a civil court and makes it clear that there shall be no third appeal.

## CHAPTER VII

*Clause 40* vests in the Central Government control over the Court of Wards and also enables the Central Government to revise the orders of the Court of Wards.

*Clause 45* provides for the repeal of enactments in force in certain States and Union territories in so far as they confer powers and functions in relation to the estates of Rulers of Indian States. Most



of those enactments, which were in force even before the commencement of the Constitution, continued to be in force after such commencement by virtue of article 372 of the Constitution. In the absence of any separate enactment relating to the Court of Wards for estates of Rulers of Indian States, those enactments were adapted so as to confer on the Central Government the executive authority under them in relation to such estates.

*The Schedule* contains the list of enactments to be repealed in part.

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## FINANCIAL MEMORANDUM

Clause 3 of the Bill constitutes the Collector or the Deputy Commissioner of the district as the Court of Wards within his jurisdiction and the proviso to that clause enables the Central Government, if it thinks fit, to appoint a Commissioner or Special Officer or a Board to perform the functions of the Court of Wards in certain cases. The expenses incurred by the Court of Wards would in the first instance have to be met from Central revenues. Again, clause 6 provides for the making of an inquiry into the circumstances and conditions of a Ruler believed to be disqualified to manage his estate. Such an inquiry will be held by an officer appointed by the Central Government. On the basis of the report of the inquiry officer, the Government may or may not decide to take over the estate of a Ruler under the Court of Wards.

Where the estate of a Ruler is taken over under the Court of Wards, all expenses incurred by the Court of Wards in respect of that estate will by virtue of clause 26 form a charge upon the estate and will be recoverable as arrears of land revenue. However, the expenses incurred in the initial stages, that is, before the estate is taken over, and the expenses incidental to such taking over, including the holding of an inquiry, would have to be met from the Consolidated Fund of India in the first instance. This expenditure will be reimbursed from the estate if it is eventually taken over under the Court of Wards.

In certain cases, it is possible that the results disclosed by the inquiry contemplated by clause 6 may not be such as to justify the Central Government directing that the management of the estate be taken over by the Court of Wards. The expenses of the inquiry which will have to be met from the Consolidated Fund of India, will not in such cases be reimbursable since there would be no estate from whose revenues it could be claimed. At present it is not possible to foresee what the expenditure on this account is likely to be as it depends upon the number of inquiries to be conducted and the decision in each case. However, the amount is not expected to be substantial.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 44 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Act. The matters with respect to which such rules may be made relate, *inter alia*, to the appointment or removal of guardians and managers by the Court of Wards, their remuneration, powers and duties, the cases in which sanction of the Central Government is required regarding proposals or arrangements connected with the administration of the estates of wards, the accounts and returns which should be rendered to the Court of Wards, and the form and other particulars thereof, the custody of securities and title deeds belonging to the estate of a ward, the procedure in inquiries and appeals and the fees payable in respect thereof and the recovery of expenses incurred by the Court of Wards. These are matters of procedure or administrative detail. The delegation of legislative power is thus of a normal character.

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S. L. SHAKDHER,  
*Secretary*

